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*Attorneys for Megan E. Noh, Chapter 11 Trustee of P8H, Inc.,
d/b/a Paddle 8, Plaintiff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Chapter 11

P8H, INC., d/b/a PADDLE 8,

Case No. 20-10809 (DSJ)

Debtor.

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MEGAN E. NOH, in her capacity as the
Chapter 11 Trustee of P8H, INC., d/b/a
PADDLE 8,

Plaintiff,

- against -

Adv. Proc. No. 20-01212 (DSJ)

JOHN TEXTOR, also known as JOHN C.
TEXTOR, an individual, FUBOTV, INC.
(formerly known as FACEBANK GROUP,
INC.), a Florida corporation, DIGITAL
COMMERCE STRATEGY AG (formerly
known as FACEBANK AG), a Swiss joint
stock company, FBNK FINANCE S.À.R.L.,
a Luxembourg limited liability company, and
STOCKACCESS HOLDINGS SAS, a French
joint stock company,

Defendants.

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STIPULATION OF DISMISSAL WITH PREJUDICE AND WITHOUT COSTS

Recitals

A. On August 28, 2020, plaintiff Megan E. Noh, in her capacity as the Chapter 11 Trustee of P8H, Inc. d/b/a Paddle 8 (“Plaintiff”), filed a complaint commencing the above captioned adversary proceeding (the “Adversary Proceeding”) against, *inter alia*, Digital

Commerce Strategy AG (“Digital Commerce”), FBNK Finance S.à.r.l. (“FBNK”), StockAccess Holdings SAS (“StockAccess”), and two other defendants, John Textor and FuboTV Inc. (Adv. ECF No. 1).

B. On November 1, 2020, Plaintiff filed a notice of dismissal of the Adversary Proceeding without prejudice as to defendants John Textor and FuboTV Inc. pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) (made applicable by Federal Rule of Bankruptcy Procedure 7041) (Adv. ECF Nos. 10-11), leaving only Digital Commerce, FBNK and StockAccess as the remaining defendants in the Adversary Proceeding.

C. On November 16, 2020, defendants Digital Commerce and FBNK filed a motion to dismiss Plaintiff’s complaint in the Adversary Proceeding, which was adjourned without date but which remains open on the docket of the Adversary Proceeding (the “Motion to Dismiss”).

D. Plaintiff and defendants Digital Commerce, FBNK, and StockAccess, among others, entered into a settlement of the Adversary Proceeding and other litigation (the “Settlement Agreement”), which Settlement Agreement was approved by the Bankruptcy Court in connection with confirmation of the Amended Joint Chapter 11 Plan of Liquidation (Bankr. ECF No. 250), pursuant to the Bankruptcy Court’s order entered on November 19, 2021 (Bankr. ECF No. 313).

E. The Chapter 11 plan became effective on December 16, 2021 (see Bankr. ECF No. 329).

F. The parties wish to confirm the dismissal of the Adversary Proceeding, with prejudice, with each party to bear its own costs and expenses. The remaining defendants believe that the pendency of the Motion to Dismiss precludes the use of a notice of dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(i) to dismiss the Adversary Proceeding without a formal stipulation.

Stipulation

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the parties, that, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) (made applicable by Federal Rule of Bankruptcy Procedure 7041), the complaint in this Adversary Proceeding is hereby dismissed as to defendants Digital Commerce Strategy AG, FBNK Finance S.à.r.l., and StockAccess Holdings SAS, with prejudice, and the Motion to Dismiss is deemed withdrawn, with prejudice, with all parties to bear their own costs and expenses, including attorney's fees.

Dated: December 28, 2021

PRYOR CASHMAN LLP

By: /s/ Richard Levy, Jr.
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Chapter 11 Trustee for P8H, Inc., d/b/a
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*Attorneys for Defendants Digital Commerce
Strategy AG, FBNK Finance S.à.r.l., and
StockAccess Holdings SAS*

SO ORDERED:

Dated: New York, New York
December 28, 2021

s/ David S. Jones
HONORABLE DAVID S. JONES
UNITED STATES BANKRUPTCY JUDGE